

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ROLANDO CASTELLANOS,  
Petitioner,  
v.  
SCOTT FRAUENHEIM,  
Respondent.

Case No. [17-cv-01307-JD](#)

**ORDER LIFTING STAY**

Rolando Castellanos, a California prisoner, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The case was stayed so petitioner could exhaust further claims. The California Supreme Court denied a petition for review, and petitioner seeks to lift the stay.

Petitioner has not indicated the claim or claims he exhausted. Petitioner previously asserted for federal habeas relief that (1) the trial court violated his right to call a witness and present a defense by failing to order the sheriff to locate a witness; (2) the trial court erred by failing to declare a mistrial and counsel was ineffective for failing to object to extending jury deliberations; (3) the jury was not properly instructed on the defense of justifiable homicide while making a citizen's arrest which prevented petitioner from presenting a complete defense; and (4) the trial court abused its discretion in denying an evidentiary hearing regarding a juror's possible concealment of bias during voir dire. He stated that he needed to exhaust the claim regarding the trial court's failure to declare a mistrial and that counsel was ineffective. Petitioner shall either file a second amended petition setting forth all the exhausted claims or he may indicate that the above claims have been exhausted and are the claims he seeks to pursue.

**CONCLUSION**


1. The stay is **LIFTED** and the case is **REOPENED**.

2. Within **twenty-one (21) days** of service of this order, petitioner must either file a second amended petition with the exhausted claims he wishes to pursue or indicate that the claims noted above are accurate and exhausted.

3. Petitioner must keep the Court informed of any change of address and must comply with the Court's orders in a timely fashion. Failure to do so may result in the dismissal of this action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). *See Martinez v. Johnson*, 104 F.3d 769, 772 (5th Cir. 1997) (Rule 41(b) applicable in habeas cases).

**IT IS SO ORDERED.**

Dated: December 11, 2018

  
\_\_\_\_\_  
JAMES DONATO  
United States District Judge

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ROLANDO CASTELLANOS,  
Plaintiff,  
v.  
SCOTT FRAUENHEIM,  
Defendant.

Case No. [17-cv-01307-JD](#)

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on December 11, 2018, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Rolando Castellanos ID: AT2857  
Folsom State Prison  
P.O. Box 950  
Folsom, CA 95763

Dated: December 11, 2018

Susan Y. Soong  
Clerk, United States District Court

By:   
LISA R. CLARK, Deputy Clerk to the  
Honorable JAMES DONATO